

AO 241 (Rev. 09/17)

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

8:24CV116

2024 APR 11 AM 11:40  
PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court OFFICE OF THE CLERK		District:
Name (under which you were convicted): Richard A. Griswold		Docket or Case No.: CR07-154
Place of Confinement: Tewmisch Correctional Facility P.O. Box 900, Tewmisch, NE 68450		Prisoner No.: 68171
Petitioner (include the name under which you were convicted) Richard A. Griswold		Respondent (authorized person having custody of petitioner) Jim Piller
The Attorney General of the State of: Michael T. Hilgers #24483		

## PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Gage County District Court, 612 Grant, Rm 303, Beatrice, NE 68310  
Nebraska Supreme Court, 2413 State Capitol, P.O. Box 98910, Lincoln, NE 68509

- (b) Criminal docket or case number (if you know):

CR07-154 / S-23-000688

2. (a) Date of the judgment of conviction (if you know):

(b) Date of sentencing: July 28, 2008

3. Length of sentence: Life + 50 years

4. In this case, were you convicted on more than one count or of more than one crime?
- ☒
- Yes
- ☐
- No

5. Identify all crimes of which you were convicted and sentenced in this case: (1) Murder in First degree

cant (2) use of weapon to commit a felony

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)  
☐ (2) Guilty ☐ (4) Insanity plea

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(8) Date of result (if you know):                     

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court:                     

(2) Docket or case number (if you know):                     

(3) Date of filing (if you know):                     

(4) Nature of the proceeding:                     

(5) Grounds raised:                     

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes    ☐ No

(7) Result:                     

(8) Date of result (if you know):                     

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:                     

(2) Docket or case number (if you know):                     

(3) Date of filing (if you know):                     

(4) Nature of the proceeding:                     

(5) Grounds raised:                     

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No(7) Result:                     (8) Date of result (if you know):                     

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No(2) Second petition: ☒ Yes ☐ No(3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** Gage County lost jurisdiction because Competency hearing was not done, after ordered evaluation, prior to sentence and conviction 14th Amendment

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Judge Paul W. Horslund granted leave for Defendant to be evaluated for Competency. This was done by Mario J. Scalora on or around December 14, 2007. In his evaluation he stated, "Therefore, it is the opinion of the undersigned that Mr. Griswold is not competent to stand trial at this time." (post Exhibit #1) Judge Paul W. Horslund proceeded to trial without any hearing violating my 14th Amendment right of due process

(b) If you did not exhaust your state remedies on Ground One, explain why:

Exhausted

(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes      ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

**Name and location of the court where the motion or petition was filed:**

Court, 612 Grant, Room 303, Beatrice, NE 68310

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

**(3) Did you receive a hearing on your motion or petition?**

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes      ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes      ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

**Name and location of the court where the appeal was filed:**

2413 State Capitol, P.O. Box 48910, Lincoln, NE 68509

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: None

**GROUND TWO:**

None

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

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Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : \_\_\_\_\_

**GROUND THREE:**

None

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):



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(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

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**GROUND FOUR:**

None

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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(b) If you did not exhaust your state remedies on Ground Four, explain why:

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(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

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(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

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Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_



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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Not Known

(b) At arraignment and plea: Not Known

(c) At trial: Not Known

(d) At sentencing: Not Known

(e) On appeal: Not Known

(f) In any post-conviction proceeding: No attorney appointed

(g) On appeal from any ruling against you in a post-conviction proceeding: No Attorney appointed

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

Claim was never determined in any postconviction proceeding. refiled this claim based on "void judgment" that can be brought in any proceeding at any time. Nebraska law allows me to bring a collateral attack on a void judgment at any time in any proceeding. These case law precedents were ignored by the

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State Court's of Nebraska. Any lapse of time will not be a bar to my motion to vacate void judgment. Thus my petition of habeas corpus pursuant to 28 U.S.C. § 2244(d) should not be a bar.

I believe I fall under the exception of Justice so requires rather than the rule.

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

To find the Petitioner's sentence  
and conviction are void due to a 14<sup>th</sup> Amendment violation of due process  
by forcing an incompetent person to stand trial.  
or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on March 9, 2024 (month, date, year).

Executed (signed) on March 9, 2024 (date).

Richard A. Grisevold  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\_\_\_\_\_  
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Richard A Griswold #68171  
Po. Box 900  
Tecumseh NE 68450-0900



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